

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 3417 (Application 11648)

Spring Creek Golf Course and Country Club

ORDER REVOKING LICENSE

SOURCE: Bucks Slough

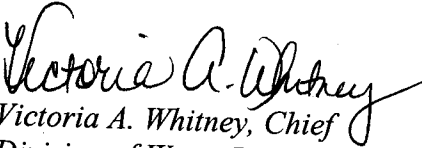
COUNTY: San Joaquin

WHEREAS:

- A. Licensee has failed to observe the terms and conditions in License 3417.
1. The State Water Resources Control Board (SWRCB) issued License 3417 on March 14, 1952. The license authorizes the Licensee to divert 0.36 cubic feet per second (cfs) by direct diversion from June 15 to September 15 of each year for the irrigation of 55 acres.
 2. The Division of Water Rights (Division) records show the original owner as Sydney W. Reynolds survived by his wife, Byrd J. Reynolds, then his daughter, Eleanor L. Reynolds Wells (Licensee) as the owner of License 3417. On March 14, 2002, Division staff contacted Anita Bogarin, previous owner of subject property, to discuss current ownership after Report of Licensee forms sent to Ms. Wells were returned as undeliverable. According to Ms. Bogarin, Ms. Wells is deceased. Ownership of the license most likely transferred to Eugene and Anita Bogarin when they bought the Reynolds property, which they sold in 2000. The Point of Diversion (POD) for License 3417 is located on Spring Creek Golf Course and Country Club (Spring Creek) property described as parcel number APN 261-240-02.
 3. The Licensee has not submitted a triennial Report of Licensee since the March 27, 1995, Report of Licensee for 1992, 1993, and 1994 was submitted by Ms. Wells, summarizing water use and project status as required by License 3417.
- B. Licensee has ceased to put the water granted under License 3417 to a useful or beneficial purpose.
1. Section 1241 of the Water Code provides in pertinent part: "When a person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water."

2. Reports of Licensee (3417) for 1972 through 1994 (22 years) indicated that no water has been used under this license.
 3. The place of use was subdivided in 2000 and the project has been abandoned. On June 18, 2003, the Division sent a letter to Spring Creek requesting information on the present use of water from the POD on Bucks Slough. The Division notified Spring Creek to respond within 15 days or a "Notice of Proposed Revocation" (NPR) would be issued to revoke the License. The Division did not receive a response.
- C. Based on the above facts and the conclusions set forth below, cause exists for revocation of License 3417 pursuant to Water Code section 1675.
1. Licensee has violated License 3417, which requires that: "Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Engineer (now SWRCB)."
 2. Licensee has not put the water granted under License 3417 to a useful or beneficial purpose for 31 years.
 3. Licensee's water right has reverted to the public under section 1241 because Licensee has not applied the water to beneficial use for more than five consecutive years, and Licensee has provided no basis for determining that it should not revert.
- D. On October 22, 2003, Licensee was provided notice by certified mail of the proposed revocation. The notice provided the Licensee the opportunity to object to the proposed revocation and request a hearing. Based on a February 5, 2004 telephone conversation with Division staff, the Licensee does not object to the revocation of License 3741.
- E. The Licensee did not submit a request for a hearing to the Division. The Division interprets the failure to respond to the Notice of Proposed Revocation as a waiver of the opportunity for a hearing. (Water Code sections 1675 through 1675.2.)
- F. The SWRCB finds that Licensee failed to apply the water to beneficial use under the terms and conditions of the license.

Therefore, it is ordered that License 3417 is hereby revoked by the SWRCB pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past SWRCB decisions regarding water availability.


Victoria A. Whitney, Chief
Division of Water Rights

Dated JUN 09 2004



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 11648

PERMIT 6776

LICENSE 3417

THIS IS TO CERTIFY, That **Sydney W. Reynolds**
401 Orange Avenue
Ripon, California

Notice of Assignment (Over)

has made proof as of July 21, 1950
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
Bucks Slough in San Joaquin County

tributary to Stanislaus River

for the purpose of irrigation use

under Permit **6776** of the Department of Public Works and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works and the terms of the said permit; that the priority of the right herein confirmed dates from **December 6, 1946**; and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **thirty-six hundredths (0.36)** cubic foot per second to be diverted from about June 15 to about September 15 of each year.

The equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located **North one thousand three hundred ten (1310) feet and East three thousand eight hundred eighty (3880) feet from the SW corner of Section 20, T 2 S, R 8 E, M.D.B.&M., being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 20.**

A description of the lands or the place where such water is put to beneficial use is as follows:

	35 acres in NW $\frac{1}{4}$ of SE $\frac{1}{4}$
	20 acres in SW $\frac{1}{4}$ of SE $\frac{1}{4}$
Total	55 acres in Section 20, T 2 S, R 8 E, M.D.B.&M.